

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.9200 Assessment (IITA Section 903)

TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART W: ASSESSMENT

Section 100.9200 Assessment (IITA Section 903)

- a) In general.
 - 1) Returns.
 - A) The amount of tax shown to be due on a taxpayer's return shall be deemed assessed on the date of the filing of the return. If upon verifying the taxpayer's properly filed return the Department finds that it contains no tax computation or, upon verifying the tax computation on the return, finds that due to a mathematical error (see subparagraph (2) below) the amount of tax shown thereon is understated, it is to notify the taxpayer that the amount of tax or the additional amount required to correct the amount shown as tax, as the case may be, has been assessed and is due. The taxpayer has no right of protest against such notice inasmuch as it does not constitute a notice of deficiency within the meaning of that term as used in IITA Section 904. (See 86 Ill. Adm. Code 100.9300.) With respect to tentative returns (Applications for Extension of Time to File (Form IL-505)) showing the amount properly estimated as the tax for the taxable year as provided in IITA Section 602(a):
 - i) the amount of properly estimated tax reported on a tentative return shall be deemed assessed on the filing date (the date payment is required) thereof,
 - ii) the payment of all or any part of such amount is in respect of and constitutes tax imposed by the Act payable into the General Revenue Fund in the State Treasury (and not a taxpayer deposit), and
 - iii) interest on any overpayment in accordance with 86 Ill. Adm. Code 100.9400(c)).
 - B) Refer to 86 Ill. Adm. Code 100.9320(f) and 100.9410(c) respecting extension by agreement at the Department's request of the limitations period for issuance of a notice of deficiency or the filing of a claim for refund by the taxpayer. An examination of a return ordinarily will not be

conducted or begun until after the last day prescribed for timely filing of the final return (extensions included). Within the context and meaning of IITA Sections 505 (time and place for filing), 602(a) (tentative payments), 904(b) (no return filed), 905(a) (limitation on notices of deficiency), 911(a) (limitations on claims for refund), and 1001 (penalty for failure to file), "return", "tax return", or "any tax return" refers to the taxpayer's final return and not to a tentative return. For purposes of commencement of the limitations period for issuing notices of deficiency by the Department (see IITA Section 905(a) and (h)), and for filing claims for refund by the taxpayers (see IITA Section 911(a) and (e)), a return filed prior to the statutory due date (when no extension has been granted) is deemed filed as of the statutory due date, and a return filed prior to an extended due date is deemed filed as of the extended due date.

2) Mathematical error defined and illustrated.

- A) Mathematical errors are to be distinguished from adjustments based on a Department determination of correct tax liability for the taxable year resulting from an examination (i.e., an audit) of the return (together with the taxpayer's books and records) after it is accepted and processed. (See paragraph (1) above and 86 Ill. Adm. Code 100.9300 below.)
- B) The term "mathematical error", calling for informal inquiry to the taxpayer in apparently appropriate cases or for issuance of a notice of tax due in addition to the tax liability shown on or paid with the original return, is of substantial administrative importance. Its use enables the Department with a minimum of correspondence and inconvenience to taxpayers to process or to complete the processing of returns containing defects, such as:
 - i) arithmetic errors or incorrect computations on the return or supporting schedules;
 - ii) entries on the wrong lines;
 - iii) omission of required supporting forms or schedules or of the information in whole or part called for thereon; and
 - iv) an attempt to claim, exclude, deduct, or improperly report, in a manner directly contrary to the provisions of the Act and related regulations, any item of income, exemption, deduction or credit.
- C) The proper response to a mathematical error notice of additional tax due is for the taxpayer promptly, within the time specified in the notice (to avoid other collection efforts and the assessment of interest thereon under IITA Section 1003), to pay the amount due unless the defect(s) can be corrected by the taxpayer's furnishing correcting information including, for example, any supporting forms or schedules indicated to have been omitted from the return. If the Department timely receives payment or correcting information which satisfactorily corrects all of the defects

indicated, it shall cancel the previously issued notice of additional tax due; if the information received only partially corrects the defects indicated in the notice, an appropriately amended notice may be issued.

- D) Referring to the type of defect described under subsection (B)(iv) above, if in filing the original return the taxpayer views applicable provisions of the Act as unconstitutional or otherwise disagrees with the interpretation of the Act provided in the Illinois Income Tax Regulations prescribed by the Department, the taxpayer should file the return in accord with the Act and the Department's interpretive regulations. Thereafter, the taxpayer properly can test the meaning or validity of the Act and regulations by filing an appropriate claim for refund of tax overpayment. (See 86 Ill. Adm. Code 100.9400(f), et seq.)
 - E) Situations illustrating defects such as those referred to in paragraph (D) above, for example, include but are not necessarily limited to a failure to report, as modifications to the taxpayer's federal adjusted gross or taxable income (provided in IITA Section 203), the additions provided for representing amounts excluded from federal taxation but taxable by Illinois or attempts to report subtractions other than those expressly provided for.
- 3) Notice of deficiency. If a notice of deficiency has been issued and a protest thereto is not filed, the amount of deficiency is to be deemed assessed as provided in IITA Section 903(a), which is upon the expiration of 45 days (150 days if the taxpayer is outside the United States) from the statutory notice issue date. If a notice of deficiency is issued and a protest is filed, the amount of the deficiency is to be deemed assessed when the Department's decisions thereon becomes final (see 86 Ill. Adm. Code 100.9100(b)(1) and (3)). Under IITA Section 908 the Department's action on the protest, if no hearing was requested, becomes final 30 days after the mailing of a notice of decision. If a hearing was requested, the Department's action becomes final 30 days after the mailing of a notice of decision unless a rehearing was requested within that 30-day period. If, within that 30-day period, the taxpayer requests a rehearing on the decision, the Department's action is to become final either upon its issuance (within 10 days after the rehearing request is received) of a denial of the request or, if such a denial is not issued within that 10-day period, upon the Department's issuance (as soon as practicable after a rehearing or, if granted in lieu thereof, a Departmental review) of a notice of final decision. (86 Ill. Adm. Code 100.9100(d).)
- 4) Federal change. If a taxpayer concedes the accuracy of a change or correction affecting the computation of his Illinois base or net income (viz., a change of tax liability reported on his federal income tax return or of any item of income, deduction, or loss on which such liability is based, or of the number of personal exemptions to which he is entitled under 26 U.S.C. 151), any deficiency in Illinois income tax liability resulting from the taxpayer's report of the federal change on Form IL-506, Form IL-1040X, or Form IL-1120X, as required under the provisions of IITA Section 506(b), is to be deemed assessed on the date of filing such report and the assessment is to be deemed timely irrespective of any other

provision of the Act. IITA Section 203(a), (b), and (d) defines "base income" as a person's properly reportable federal adjusted gross income or taxable income, as the case may be, subject to certain specified modification; see IITA Section 204 for "net income" respecting individual taxpayers. Thus, it shall be the Department's position and practice to rely upon and accept the federal Internal Revenue Service determination as to the amount of a taxpayer's adjusted gross or taxable income and the number of exemptions to which he is entitled for federal income tax purposes. Adherence to that position shall be subject to exception only in rare circumstances such as where the Internal Revenue Service for some reason (e.g., where no change in federal tax liability would result) might fail or decline to act, or where the 18-month statutory period of limitations for prosecution would expire before action by IRS. IITA Section 506(b) also requires that a notification of the alteration, showing the taxpayer's address and signed by him or his representative, be filed with the Department not later than 120 days after such alteration has been agreed to or finally determined or after any federal income tax deficiency or refund, abatement, tentative carryback adjustment or credit resulting therefrom, has been assessed or paid for federal income tax purposes. Such finality also exists where a taxpayer executes (and IRS accepts) a Form 870 agreement waiving the restrictions on assessment or pays any asserted tax increase, even if it is his intent thereafter to file a claim for refund for all or part of such tax (in such instance, the claim would constitute a separate case), or after any federal income tax deficiency or refund, abatement, tentative carryback adjustment or credit resulting therefrom, has been assessed or paid for federal income tax purposes.

- b) Limitations on assessment. No deficiency is to be assessed respecting a taxable year for which a return was filed unless a notice of deficiency for such year was issued not later than the date prescribed in IITA Section 905. (See 86 Ill. Adm. Code 100.9320.)

(Source: Amended at 11 Ill. Reg. 2450, effective January 20, 1987)